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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,559	08/25/2003	Brian M. Holmes	B0077-US01	5159

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GAMBRO, INC  
PATENT DEPARTMENT  
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EXAMINER

REIFSNYDER, DAVID A

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/648,559	<b>Applicant(s)</b> HOLMES ET AL.	
	<b>Examiner</b> David A. Reifsnnyder	<b>Art Unit</b> 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) 1-29 and 43-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-42 and 56-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/03(1-7, 14-30); 11/03(8-13, 31-38) is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/9/04; 5/19/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Group III, ( i.e. original claims 30-42 and new claims 56-59) in the reply filed on December 20, 2005 is acknowledged.

Claims 1-29 and 43-55 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 20, 2005.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30-42 and 56-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 30; the recitation in claim 30 of "***A set of containers for the separation by centrifugation of a composite fluid into at least two fluid components, the set of containers comprising a separation container connected to at least one collection container for a fluid component, wherein the separation container comprises:***" is vague and indefinite as to whether the applicant intends to claim **A set of containers** or **a separation container**. In addition, because of this it is

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vague and indefinite as to whether the collection container recited on the third line is a claim limitation or an intended use. Furthermore, the recitation of “***an annular chamber having an outer and an inner circumferences;***” is vague and indefinite as to what is meant by outer and an inner circumferences. In addition, the recitation at the end of the claim of “***wherein at least one collection container is connected to the separation chamber via the distribution channel.***”; is vague and indefinite as to whether the separation chamber and the collection container is the same as the previously mentioned separation container and collection container. Lastly the recitation “the separation chamber” lacks antecedent basis.

Regarding claim 31; the recitation of “***the channel***” lacks antecedent basis. Therefore, the recitation of “***any fluid contained in the channel leaves the distribution channel and flows in the annular chamber***” can not be understood.

Regarding claim 33; the recitation of “***a collection chamber connected by a tube to the separation container***” is vague and indefinite as to whether the collection chamber is the same as the collection chamber claimed in claim 30.

Regarding claim 34; the recitation of “***the space defined within the inner circumference of the annular chamber.***” lacks antecedent basis. Therefore, the recitation of “***a support member connected to the inner circumference of the annular chamber and at least partially closing the space defined within the inner circumference of the annular chamber.***” can not be understood

Regarding claim 37; the recitation of ***“a collection container connected by a tube to the separation container, ...”*** is vague and indefinite as to whether the collection chamber is the same as the collection chamber claimed in claim 30.

Regarding claim 39; the recitation of ***“a weak seal”*** is vague and indefinite as to what is meant by a **weak** seal. Furthermore, the recitation of ***“the opening connecting the distribution channel to the annular chamber”*** is vague and indefinite because claim 30 claimed that the distribution channel communicates with the annular chamber via the opening, and did not claim that the distribution channel was connected to the annular chamber via the opening.

Regarding claim 40; the recitation of ***“a weak seal”*** is vague and indefinite as to what is meant by a **weak** seal.

Regarding claim 41; the recitation of ***“the rotor”*** lacks antecedent basis.

Regarding claim 42; the recitation of ***“the rotor”*** lacks antecedent basis.

Regarding claims 56-59; claims 56-59 depend from none-elected withdrawn claim 1; therefore, it can not be determined as to what the applicant intends to claim in claims 56-59. Furthermore, claims 56-59 claim “A set of containers...” while claim 1 claims “An apparatus....”.

**Note: it is believed that claims 56-59 are supposed to depend from claim 30.**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30-42 and 56-59 rejected under 35 U.S.C. 102(b) as being anticipated by Holmes et al.

Regarding claims 30-42 and 56-59; Holmes et al. discloses a set of containers for the separation by centrifugation of a composite fluid into at least two fluid components, comprising:

a separation container comprising an annular chamber having a seal, an outer circumference and an inner circumference;

a distribution channel is attached to the annular chamber and communicates with the annular chamber via an opening located at the inner circumference of the annular chamber;

a plurality of collection chambers are connected to the distribution channel; and

a supply tube is connected to the distribution channel. (Figs. 1, 8, 9, 9B)

Claims 30-42 and 56-59 rejected under 35 U.S.C. 102(b) as being anticipated by Unger et al.'132

Claims 30-42 and 56-59 rejected under 35 U.S.C. 102(b) as being anticipated by Tie et al.

Regarding claims 30-42 and 56-59; Tie et al. discloses a set of containers for the separation by centrifugation of a composite fluid into at least two fluid components, comprising:

- a separation container (14) comprising an annular chamber having a seal, an outer circumference and an inner circumference;

- a distribution channel is attached to the annular chamber and communicates with the annular chamber via an opening located at the inner circumference of the annular chamber;

- a plurality of collection chambers (16, 8, 20, 22) are connected to the distribution channel; and

- a supply tube (12) is connected to the distribution channel. (Fig. 1)

Claims 30-42 and 56-59 rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/02037 A1.

Regarding claims 30-42 and 56-59; WO 01/02037 A1 discloses a set of containers for the separation by centrifugation of a composite fluid into at least two fluid components, comprising:

- a separation container (22) comprising an annular chamber having a seal, an outer circumference and an inner circumference;

- a distribution channel is attached to the annular chamber and communicates with the annular chamber via an opening located at the inner circumference of the annular chamber;

a plurality of collection chambers (37-40) are connected to the distribution channel; and

a supply tube (30) is connected to the distribution channel. (Figs. 3-4)

### ***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

WO 2004/018021 A2 who is a PCT equivalent of the present application .(i.e. U.S. Patent Application No. 10/648559)

2004/0026341 A1 which is an equivalent of WO 01/02037 A1 which the applicant cited on the PTO 1449 filed May 19, 2004.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Reifsnyder whose telephone number is (571) 272-1145. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M. Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David A Reifsnyder  
Primary Examiner  
Art Unit 1723

DAR